

Policy Brief No. 7

From Temporary Work
to Irregular Status:
The Transition and
Experiences of Senegalese
Migrant Women in Spain

Migration, Gender and Social Justice: Connecting Research and Practice Networks



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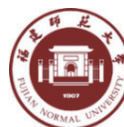
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From Temporary Work to Irregular Status: The Transition and Experiences of Senegalese Migrant Women in Spain

Executive Summary

Amid increasing irregular flows of Senegalese migrants to Spanish territories, Senegal and Spain entered into a bilateral agreement in 2007 for a temporary work scheme that ultimately saw the migration of more than 700 Senegalese women for work in the agricultural sector in Spain since then. Due to a number of factors, including weaknesses in the recruitment process on the sending side and the nature of the work on the receiving side, many of the women subsequently abandoned their posts in search of domestic labour or personal services jobs in Spanish cities, thus transitioning to irregular status. Based on data collected from 525 of these Senegalese migrant women, this policy brief examines how they came to form this unintended cohort of unauthorized migrants and their experiences as they strive to live, work and access various social rights. Some measures are suggested to strengthen future temporary work schemes and protect Senegalese women migrants in Spain.

Policy Brief No. 7: From Temporary Work to Irregular Status: The Transition and Experiences of Senegalese Migrant Women in Spain

This policy brief is adapted from a chapter authored by Aly Tandian and Sylvia I. Bergh, 'From temporary work in agriculture to irregular status in domestic service: The transition and experiences of Senegalese migrant women in Spain' in Truong et al. (eds) (2013) *Migration, Gender and Social Justice: Perspectives on Human Security* (Heidelberg: Springer). This policy brief has been prepared within the IDRC-sponsored project 'Migration, Gender and Social Justice', and is based on research undertaken in the project 'La protection sociale des migrantes Sénégalaises évoluant dans les activités agricoles et les services particuliers en Espagne' (translated as 'Social and Health Protection of Women Migrants from Senegal in Agricultural Activity and the Personal Care Industry in Spain'), research conducted by Le Groupe d'Etudes et de Recherches sur les Migrations et Faits de Sociétés (GERM & Faits de Sociétés), Université Gaston Berger de Saint-Louis (Senegal), funded by IDRC, project number 105463-001.

For additional insight into the findings of the research, please visit the project page on the website of Le Groupe d'Etudes et de Recherches sur les Migrations & Faits de Sociétés:
http://www.germ.sn/index.php?option=com_content&view=article&id=39&Itemid=106.

Introduction

Among the Senegalese, migration has long been seen as an unparalleled opportunity for professional and personal development as well as a means by which a migrant's family can be relieved from daily struggle through remittances sent homeward. Senegalese migration to the European Union—typically to France, Italy and Spain—has been driven since the late 1980s and early 1990s by poverty and underemployment, as well as the pull of excitement and opportunity in destination countries.

Historically, Senegalese migrants were made up primarily of men, but women are occupying an increasingly important role among Senegalese who migrate both legally and illegally for family reunification, study and work. The migration of Senegalese women to Spain has reached unprecedented numbers: according to the 2009 census, 9,190 of the estimated 56,048 Senegalese identified in Spain were women, though many more were likely not counted.

This policy brief focuses on Senegalese women who migrated to Spain beginning in January 2008 under a temporary labour scheme devised between the two

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countries, their subsequent experiences in the agricultural work into which they were recruited, their desertion of that work in favour of jobs in the domestic and personal services sectors and, ultimately, their resulting unauthorized status. The brief is based on in-depth research carried out between March 2010 and October 2011 with the aim of understanding the living and working conditions among 525 of these women, as well as women migrants who had previously arrived in Spain, and their access to social and labour-market protections.

While research into Senegalese international migration involving both men and women is somewhat common, little attention has been paid in the literature to the movement of Senegalese migrants across employment sectors, the economically motivated migration of women, and women's access to labour-market and social protections in destination countries. Unauthorized immigration is also the target of much research, but there is little discussion of migrants who enter a country legally and subsequently transition to irregular status. As such, this research fills in gaps in knowledge and is of considerable policy relevance, given that the EU and its member states are considering increasing temporary/

seasonal labour schemes in the agricultural sector. Policymakers are thus invited to learn from the Senegal experience how schemes and access to rights can be improved.

Research findings

In order to fill labour gaps in the Spanish workforce, Spain has implemented temporary work schemes and

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quota policies in recent years that have attracted large numbers of migrants from Senegal and other countries. In fact, the bulk of the temporary and circular migration entering Spain is coordinated through recruitment schemes for agriculture that provide residence and work permits for migrants, and an easy method of procuring short-term seasonal workers for Spanish employers. Circular migration within these schemes is encouraged through certain requirements and incentives. Participating migrants must commit in writing to returning to their origin country at the end of the work season and to register with a Spanish consulate in their origin country so that their compliance can be monitored. A worker who fulfills their promise to return home can circumvent the selection process to participate in the temporary work programme again. After four years of compliance with the requirements, migrants also gain easier access to permanent work authorization in Spain.

In 2007, bilateral agreements for a temporary work scheme signed by Spain and Senegal—which were developed in response to a recent spike in illegal immigration from the latter to the former—led to the hiring of more than 700 female migrants to harvest strawberries on farms in Andalusia, beginning in January 2008. A board of employment was set up in Dakar

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with the assistance of the International Labour Organization to select candidates, manage the administrative processing of permits and train workers for employment in Spain. Under the terms of the agreement, the cost of travel from Senegal to Spain was to be covered by the employer, but the amount was then to be deducted from the salary paid to the worker. Senegal was responsible for selecting female workers who were competent in doing farming work and originating from a

rural area, while the Spanish government was responsible for visas and travel arrangements.

The selection procedure was hampered significantly, however, by the lack of coordination and clear mandates of the various agencies involved. Additionally, the targeting and profiling of the candidates was problematic, in that some of those recruited were unable or unwilling to perform farming tasks despite official statements that candidates were required to demonstrate

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their physical health and agricultural training in order to be selected. The result was that some Spanish employers and women migrant workers complained about the difficulties of adapting to life and work in Spain. There were also reports of the use of bribery on the part of some Senegalese to secure the selection of certain girls who may or may not have had any experience or interest in farm work, but who merely sought easy entry into Europe.

Most importantly, the individual work contracts signed by the selected women agricultural workers were not translated from Spanish to French and did not include input from the workers themselves. As a result, the

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workers were generally unaware of the contract terms and conditions with respect to specific tasks, working hours, remuneration, accommodation and other specific details of the work in Spain. Moreover, there were reports that the training in Senegal was insufficient and consisted only of a quick presentation of basic farming tasks.

The protection conditions for workers in Spain who have been recruited collectively in their country of origin for fixed-term work and with a residence permit seem to be adequate, at least on paper. For example, they must register with the Spanish social security system at the start of their employment and may register as job seekers with the public employment services if they lose their job before the end of the validity period of the permit. They are exempt from unemployment contributions, but mandatory contributions are required to cover the costs of potential occupational and non-occupational accidents and illnesses.

With regard to employers of seasonal workers, Spanish legislation requires them to guarantee decent accommodation with appropriate hygiene conditions and to organize the journey to Spain and back to the country of origin, bearing at least the cost of the first of these journeys and the expenses of transfer to and from the point of entry into Spain. Monitoring of compliance with accommodation conditions is carried out through the Work Departments and Provincial Labour Inspectorate. The legislation also requires diligence on the part of employers in ensuring that workers return to their countries of origin at the end of the employment relationship.

The present research shows, however, that experiences under the temporary work scheme from the perspective of the migrant women workers contrast quite significantly with these requirements.

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informal sector. Both migrant and Spanish workers need to be flexible in terms of availability and capacity to work, enduring physically demanding conditions, and accepting low salaries (approximately three euros per hour) and job insecurity. Respondents in the present research also reported that housing for temporary migrant women agricultural workers was cramped and unhygienic, with up to eight women sharing a small space with no plumbing. While agriculture is a common first employment sector for many African migrants, most try to leave it as soon as possible for more secure jobs in other sectors.

Despite the stipulation that the Senegalese women agricultural workers were to return to their home country at the end of their activities, many chose to overstay their visas to work in other sectors. Some managed to flee from their jobs in agriculture through the complicity of their families already established in Spanish cities

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such as Barcelona, Seville and Madrid, while others made the decision on their own to abandon their posts. Many ended up in the personal care or domestic service sectors, which were considered better alternatives to the harsh conditions of agriculture.

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us, as they had violated the terms of their temporary residence and work permits with which they were able to travel to Spain, settle in the territories where they were recruited for agricultural work.

Unlike Senegalese women who migrated to Spain legally (for family reunification or other reasons) and subsequently found work in domestic service, Senegalese women with irregular status in Spain seek out domestic work without the help of placement agencies and work without written contracts. Many employers hire domestic workers without regard for immigration status, and workers with irregular status are often preferred, as their capacity to take legal action in cases of abuse or for other reasons is diminished. The working hours for irregular migrant women may also be longer than those of contract workers, but this may be perceived as a privilege because those workers can earn more. Senegalese domestic workers also face isolation in affluent areas, humiliating treatment as a 'slave' in the household (their own words), cultural clashes with respect to certain tasks that must be performed (e.g., walking and cleaning up after dogs, which are considered filthy in the Muslim religion) and the deterioration of skills in cases of women who had been educated or trained back in Senegal.

Some Senegalese women in the present research felt they were forced by necessity to keep their domestic work jobs even if it meant drudgery and harsh employers. These women were influenced by pressure from

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family back home for remittances or to repay the cost of the migration. Others, however, were able to successfully abandon domestic work for other employment if the work conditions become too difficult or unpleasant. In most cases, the women interviewed agreed that the lack of legal migration status constituted a handicap in their earning potential and in accessing their rights.

Domestic work is designated as an 'employment arrangement with exceptional characteristics' and does not fall under common labour law in Spain. Thus, migrant women employed in this sector—regardless of their status—experience disadvantages regarding working conditions and social benefits. For example, work contracts are not obligatory; the wage is equal to the national minimum wage (624 euros per month) and much less for live-in workers; and live-ins are often obligated to work more than the maximum 40 hours per week due to their continuous presence in the household. Most importantly, domestic workers do not have a right to unemployment benefits or maternity leave in the

case of pregnancy. In the absence of a valid residence and work permit, irregular migrant women can be in an even more economically precarious and legally vulnerable situation.

Legally present migrants have the same civil and social rights as Spanish nationals, and even unauthorized immigrants have the right to free access to public health-care services, free compulsory education (3 to 16 years) and public housing. However, many migrants rely on organizations and social services that help those with irregular status, as much of Spain's assistance is reactive in nature.

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domestic work, but their illegal status, lack of mastery of the Spanish language or ignorance of the labour code prevent them from effectively addressing them. The lack of financial resources and trained personnel are real impediments for Senegalese associations in Spain trying to meet their members' needs to claim their rights to social protection.

At the national level, the role of trade unions to represent all workers, including non-EU immigrants, has weakened. While some have taken actions to encourage non-discrimination, protect the rights of immigrant workers and play a key role in regularization processes, there are low levels of union membership in the domestic service and agriculture sectors, and the majority of non-Latin American immigrant workers have no experience of trade union practices in their countries of origin.

Conclusion

From the data collected from the migrant women involved, it would appear that there have been political and institutional failures, including: the misalignment of recruiting practices and the expectations and profiles of prospective candidates; attempted or actual bribery in the selection process; the lack of information on the part of workers about the work contract and salary; and the dire living and working conditions in the agricultural sector in Spain. These have resulted in the ultimate creation of a large cohort of irregular women migrants initially brought in via a legal pathway for temporary employment.

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Some of these women now find themselves in precarious situations of reduced statutory and contractual rights, and face skills deterioration, isolation, exploitation and even abuse. From the findings presented here, policy recommendations can be made for improving both temporary (agricultural) work schemes as well as the situation of female migrant domestic workers in Spain.

Recommendations

Temporary migration schemes are seen as responding to the needs of some labour markets and the pressures of migration flows, the fear of brain drain and the desire for return migration. Theoretically, if the system is transparent, predictable and rights-based, it could be a realistic and cost-effective policy option. Additionally, successful temporary work programmes must include recruitment practices that are aligned with the realities of the work intended to be filled by the migrants in the destination country, and the profiles and motivations of the candidates desired and available in the origin country. The following recommendations are thus suggested:

1. *Strengthen the institutional capacities of the governments of countries of origin* for the management of migration flows, by increasing the number of diplomatic representatives and jointly-run employment services in order to streamline the processes of recruitment, selection and return of foreign workers. Programmes must ensure procedures for the recruitment of foreign workers by employers that are based on criteria of qualifications and experience, as opposed to cultural or racial preferences.

2. *Migrant workers must be well prepared for their participation in temporary work programmes.* They should receive guidance on contracts; information on legal processes, resources, and basic rights in the host country; and training in job skills, cultural awareness, and the host-country language. Selected candidates should be empowered in the negotiating and contracting phase of the recruitment process. They should be well informed about the requirements and incentives of the programme and free to ask questions, provide input and determine some key aspects of their own participation.

3. *Receiving countries should develop more robust legal frameworks to encourage the circular migration of documented foreign nationals to and from their countries of origin, particularly those on short-term contracts.* While the Spanish government seems to be moving forward along these lines with its recent Ministry of Labour and Immigration *Plan Estratégico de Ciudadanía e Integración* (Strategic Plan for Citizenship and Integration, 2007–2020), uptake among migrants is actually quite slim. More can be done so that circular and return migration are seen as viable options by migrants in practice as well as on paper.

4. *Increase funding and capacities of those seeking to help Senegalese migrants in Spain.* With additional support, Senegalese officials and diplomatic missions can provide migrants with information on policy changes and rights, assist them with legal claims and advise them on immigration status changes. Staff at the

'... if the system is transparent, predictable and rights-based, it could be a realistic and cost-effective policy option.'

Senegalese consular services in Spain should be specialized in questions of social protection so as to inform their nationals of their rights and obligations according to the legal framework in Spain. Increased funding would help Senegalese organizations and associations in Spain provide job training and placement programmes, capacity and skill building and other support services. There is also a need to increase advocacy for migrants to access to certain labour rights and social benefits.

